

REMARKS

Claims 1-12 and 14-38 are pending in this application.

Reconsideration of the above-identified application in view of the following remarks is respectfully requested.

I. Rejections Under 35 U.S.C. §103:

Claims 1, 3, 11, 13, 18, 19, 21, 22 and 24-33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan in view of U.S. Patent No. 5,959,687 to Dinwiddie (“Dinwiddie”).¹

Claims 5 and 6 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan and Dinwiddie in view of Hines et al.

Claim 10 was rejected under 35 U.S.C. §103(a) as being unpatentable over Dan and Dinwiddie in view of Bell.

Claims 4, 7, 14, 15, 20, 23 and 34-38 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan and Dinwiddie in view of Yu et al.

Claims 8 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Dan in view of Hines et al.

Claims 1, 11, 24, 29 and 35-38 are drafted in independent form.

A. Claim 1:

Claim 1 recites “at least one of the plurality of packets of the ongoing packet transfer comprises a header portion and a separate payload portion and said at least a portion of the image data is transmitted in the header portion”. (Emphasis added)

¹ Claim 13, however, was canceled in Applicant’s prior amendment filed July 6, 2006.

The Examiner concedes that Dan does not teach this feature of claim 1. (Office Action, p. 3.) However, the Examiner asserts that this feature is taught by Dinwiddie, citing col. 8, line 45 through col. 9, line 4 thereof. (Id. at 4.)

Applicant respectfully disagrees. The cited passage of Dinwiddie merely discloses a packet header that identifies the content of the payload portion of the packet. As discussed in the cited passage, the header may identify the content of the payload portion as video data, audio data, auxiliary data or closed caption data, and is used to determine how the packet payload is to be processed. Applicant respectfully submits that the identifier in the header portion of a packet in Dinwiddie is not “image data”, as required by claim 1. This is particularly evident from claim 1’s explicit recitation of “image data” as data for display on a display associated with the receiving device during the ongoing packet transfer. (See, claim 1, which calls for “transmitting at least a portion of the image data ... for display on a display associated with the receiving device during the ongoing packet transfer” and “said at least a portion of the image data is transmitted in the header portion” of at least one of the packets of the ongoing packet transfer.) Clearly, the identifier in the header of the Dinwiddie packets is not for display on a display of the receiving device during the ongoing packet transfer; instead, as explained above, the identifier in the header is merely data used by the system of Dinwiddie to determine how to process the content in the payload portion of the received packets.

Accordingly, Applicant respectfully submits that Dinwiddie neither teaches nor suggests “at least one of the plurality of packets of the ongoing packet transfer comprises a header portion and a separate payload portion and said at least a portion of the image data is transmitted in the header portion”, as required by claim 1. Given that, as pointed out by the Examiner, this feature likewise is not taught by Dan, Applicant respectfully submits that claim 1

is patentable over the combination of Dan and Dinwiddie as proposed in the Office Action for this reason alone.

In addition, however, Applicant respectfully submits that there simply is no motivation on the present record to modify Dan to include the header data of Dinwiddie. As previously explained, the header data in Dinwiddie merely identifies the type of data in the packet payload to determine how the packet payload should be processed. Applicant is at a loss to understand why one would have been motivated by Dinwiddie to modify the methodology by which multimedia data is processed in Dan. Nor has the Examiner provided any such motivation as clearly can be seen by the incomplete sentence in the Office Action on this very issue. (See, Office Action, page 4, second full paragraph, “Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Dan by incorporating at least one of the plurality of packets of the ongoing packet transfer comprises a header portion and a separate payload portion and said at least a portion of the image data is transmitted in the header portion for the purpose”.)

Accordingly, Applicant respectfully submits that claim 1 is allowable over the combination of Dan and Dinwiddie for this additional reason.

Applicant respectfully submits that should the Examiner persist in the rejection of claim 1 in view of Dan and Dinwiddie, and thus, claim 1 not be allowed in view of the foregoing remarks, a new Office Action on the merits should be issued in which the rejection of claim 1 is clarified. Moreover, any attempt to do this in an Advisory Action would be unacceptable, since it should have been done in the outstanding Office Action; providing it in an Advisory Action would unfairly prejudice Applicant by, among other things, allowing less time for Applicant to consider the Examiner’s position.

B. Claims 11, 24, 29 and 35-38:

In the Office Action, independent claims 11, 24, 29 and 35-38 were rejected over Dan in view of Dinwiddie. However, it is unclear what feature(s) of the foregoing claims the Examiner is alleging is met by Dinwiddie. Although the Examiner relies on Dinwiddie for the feature of “at least one of the plurality of packets of the ongoing packet transfer comprises a header portion and a separate payload portion and said at least a portion of the image data is transmitted in the header portion”, that feature is not recited in any of the foregoing claims, and is found only in claim 1. As such, clarification of the rejection of claims 11, 24, 29 and 35-38 is respectfully requested. In addition, Applicant respectfully submits that there is simply no motivation on the present record to combine these two references -- Dan and Dinwiddie --to reject claims 11, 24, 29 and 35-38, for the same reasons discussed above in urging the allowance of claim 1.

Moreover, claim 11 includes the features of “sending, during an ongoing file transfer operation in which content is sent from a sending device to a receiving device, image data in addition to said content” and “a display for displaying at least a portion of said image data on said receiving device during said ongoing file transfer.” (Emphasis added.) Claims 1, 24, 29 and 35-38 contain similar features.

In the Office Action, the Examiner stated that “HTTP protocol allow display of downloaded objects prior to completion of the page transfer, or in other words, during packet transfers” (Office Action, p. 3), apparently in support of the claimed feature of “displaying at least a portion of said image data on said receiving device during said ongoing file transfer”, as recited in claim 11. Applicant respectfully submits that the Examiner’s statement is unsupported and, in addition, does not specify whether the “objects” referred to therein are “image data”

(which is data in addition to said content), as required by claim 11. As such, the Examiner's statement is improper.

Accordingly, for at least each of the foregoing reasons, Applicant respectfully submits that the Office Action has not established a *prima facie* case of obviousness with respect to claims 11, 24, 29 and 35-38 in view of Dan and Dinwiddie. Thus, these claims are allowable over Dan and Dinwiddie.

Moreover, since claim 1 also includes features similar to the above-quoted features of claim 11, the rejection of claim 1 is improper for this reason in addition to those provided in the Section I.A, *supra*.

II. Dependent Claims:

Dependent claims 18, 19, 22, 27, 28, 32 and 33 were rejected in both the instant Office Action and the immediately two prior Office Actions as being obvious over Dan on grounds that:

"It would have been obvious to one of ordinary skill in the art at the time of the invention to insert image and its associated display parameters in the banner (in Fig. 9) using tag of HTML, so that the displayed image fits in the page that displays the image."

"It would have been obvious to one of ordinary skill in the art at the time of the invention to insert image and its associated display parameters in the banner (in Fig. 9) using tag of HTML, so that in lieu of text data, the image data is displayed."

(Office Action, pp. 6-7)

In its response to the prior two Office Actions, Applicant requested that, should the Examiner persist in the foregoing rejections, he provide evidence in support thereof. In the instant Office Action, however, the rejections were repeated without any further elaboration. Evidence in support of the rejections is again respectfully requested.

Applicant does not believe it necessary at this time to further address the rejections of the dependent claims as Applicant believes that the foregoing arguments place the independent claims in condition for allowance. Applicant, however, reserves the right to address those rejections in the future should such a response be deemed necessary and appropriate.

For the above-stated reasons, this application is respectfully asserted to be in condition for allowance, and an early and favorable examination on the merits is respectfully requested.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required by this response, or credit any overpayment to Deposit Account No. 13-4500, Order No. 4208-4066.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 13-4500, Order No. 4208-4066.

Respectfully submitted,
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